

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

DAYRON T. JOHNSON,	)	
	)	
Movant,	)	
	)	
vs.	)	Case No. 09-0830-CV-W-ODS
	)	Crim. No. 05-00029-03-CR-W-ODS
UNITED STATES OF AMERICA,	)	
	)	
Respondent.	)	

ORDER DENYING CERTIFICATE OF APPEALABILITY

In order to appeal this Court's denial of his motion filed under 28 U.S.C. § 2255, Movant must first obtain a Certificate of Appealability. The Court customarily issues an Order addressing the Certificate of Appealability contemporaneously with the order on the Motion for Postconviction Relief because the issues are fresh in the Court's mind and efficiency is promoted. 28 U.S.C. § 2253(c)(2) provides that a Certificate of Appealability should be granted "only if the applicant has made a substantial showing of the denial of a constitutional right." This requires Movant to demonstrate "that reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003) (quotation omitted). When a Certificate of Appealability is denied, the court is required to "state why such a certificate should not issue." Fed. R. App. P. 22(b). In this case, Movant's arguments are demonstrably incorrect, and there is no justification for further proceedings.

IT IS SO ORDERED.

DATE: June 2, 2010

/s/ Ortrie D. Smith  
ORTRIE D. SMITH, JUDGE  
UNITED STATES DISTRICT COURT